IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Contempt Petition No. 300 of 2003

with

Civil Application Nos.28 & 29 of 2005

with

Civil Appln Nos 8 and 9 of 2006

Amita B Devnani .. Petitioner

vs

Bhagwan H Devnani and ors ..Respondents

Ms Sonal for Jai Chinoy Sr Counsel i/b Lalit S Jain for petitioner

Mr A.Y.Sakhare Sr Advocate i/b M P Bhatt for respondent no.l

Mr. A.M.Talreja for respondent no.4

Mr. Y.S.Jahagirdar Sr Advocate with Mr Vaibhav i/b Kishore Thakordas & Co for respondent nos.2,3,5 and 6

CORAM; A.M.KHANWILKAR J.

DATED 9.3.2006

P.C.

. For the reasons recorded in the judgment pronounced in open court, following operative order be issued:

a). In so far as the quantum of sentence is concerned, I have no hesitation in taking a view that the conduct of the respondent no.l is so gross and reprehensible that the same deserves imposition of maximum punishment provided by law. There can be no two opinions on that count. If the respondent no.l had the ability to pay even portion of the stated maintenance amount, there was no reason for the respondent no.l to drag the proceedings for so long without offering even a single rupee till now. Obviously, the design of the respondent no.l was to create a situation that the petitioner will not be able to reap the benefits accruing under the order of maintenance dated 30.l0.200l. In other words, the attitude of the respondent no.l was that, no matter the order of maintenance in favour of the petitioner, he shall not pay any amount to the petitioner even if

it is in utter disregard of the order of the court. The acts of commission and ommission of the respondent no.l constitute wilful disobedience and replicates utter disregard to the order of court amounting to civil contempt. Thus understood, this is a gross case and the facts being so telling, I have no hesitation in imposing maximum punishment of six months of civil imprisonment and fine of Rs.2000/-.

b) However, as the respondent no.l has shown willingness to purge the contempt and has personally given assurance to the court today to respect the order of maintenance in future regularly, I proceed to pas the following order:

c) The respondent no.l is held guilty of having committed civil contempt and is ordered to suffer imprisonment in terms of section l2 of the Contempt of Courts Act, for a period of six months and to forthwith pay a fine of Rs.2000/-.

d) This order shall however, not be acted upon and the unconditional apology tendered by the respondent no.l be deemed to have been accepted, in the event the respondent no.l purges the contempt by depositing the entire outstanding amount as of

today arising out of the order dated 30.l0.200l. The said amount shall be paid within two and half months from today as per the oral request made and undertaking given by the respondent no.l, failing which the warrant of arrest be issued against the respondent no.l to be executed on 22.5.2006 so as to give effect to the order of punishment indicated earlier. In other words, the respondent no.l shall pay the entire outstanding amount of Rs.4,97,500/- (Rs 4,90,000/- towards amount of arrears of maintenance and Rs.7500/- towards order of costs imposed vide order dated l3.7.2004 in Writ Petition No.5ll6 of 2004) on or before l9.5.2006.

d) It is further ordered that in the event the respondent no.l deposits the amount as referred to above within the specified time,the order of sentence and fine will stand suspended for a period of one year to observe the conduct of the respondent no.l regarding fulfilment of his obligation of future payment in terms of order dated 30.l0.200l which has become final.

e) Notices issued to respondent nos. 2 to 6 stand discharged with liberty to the petitioner to take recourse to such other remedy as may be permissible by law. If such proceedings are initiated, all questions on merits are left open to be decided before the appropriate forum. It is made clear

that no observation made in this judgment be construed as expression of opinion on any of the contentions arising for consideration in such proposed proceedings.

f) At this stage the counsel for the petitioner points out that in order to ensure that the respondent no.l does not remove himself from the jurisdiction of this court or from India, the respondent no.l may be directed to deposit his passport in this court till the entire amount is not deposited by him on terms referred to earlier . I find substance in this submission. The respondent no.l is directed to deposit his passport in the Registry of this court, through his counsel not later than l0.3.2006. The respondent.no.l assures to comply with this requirement as well, being one of the condition for deferring the order of sentence and to enable the respondent no.l to purge the contempt. In other words, if the respondent no.l fails to deposit his passport by l0.3.2006,the warrant of arrest be issued forthwith so as to give effect to the order of sentence and the respondent no.l will be taken into custody to suffer the punishment.

Ordered accordingly.

. All concerned parties to act on an ordinary copy of this operative order of the judgment dictated in open court duly authenticated by the Court Sherestedar.